

No. 85-1244

Supreme Court, U.S.
FILED

JUL 3 1986

JOSEPH F. SPANIOL, JR.
CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1985

CITY OF PLEASANT GROVE,

Appellant,

v.

THE UNITED STATES OF AMERICA,

Appellee.

On Appeal From The United States
District Court For The District Of Columbia

JOINT APPENDIX

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JURISDICTIONAL STATEMENT FILED JANUARY 23, 1986
PROBABLE JURISDICTION NOTED MAY 19, 1986

26pp

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**CHRONOLOGICAL LIST OF
RELEVANT DOCKET ENTRIES**

<u>DATE</u>	<u>NUMBER</u>	<u>DOCUMENT</u>
10/10/80	1	Complaint
12/9/80	4	Answer
5/15/81	24	Plaintiff's Motion for Summary Judgment ("Western Addition")
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2/17/84	85	Plaintiff's brief on the merits
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**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA**

CIVIL ACTION NO. 80-2589

CITY OF PLEASANT GROVE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

TO: The Honorable Bobby R. Patrick &
The City Council of Pleasant Grove

FROM: Concerned Citizens

DATE: April 17, 1979

SUBJECT: Annexation Into the City Limits

We, the undersigned citizens and registered voters of West Smithfield Manor, a subdivision of Pleasant Grove Highlands, and the registered voters along the Five Acre Road, would like to petition the City of Pleasant Grove to consider us as a request for annexation into the city limits.

Please give this your serious consideration. (Concerned citizens)

Attachment

NAME ADDRESS PHONE NO.

[Signatures omitted in printing]

IN THE UNITED STATES DISTRICT COURT FOR
THE
DISTRICT OF COLUMBIA

CIVIL ACTION NO. 80-2589

CITY OF PLEASANT GROVE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ANSWERS TO DEFENDANT'S INTERROGATORIES
TO PLAINTIFF (SET 1)

GENERAL OBJECTION: Because there are no black voters in Pleasant Grove, the proposed annexation challenged here cannot lead to "retrogression in the position of racial minorities with respect to their effective exercise of the electoral process," *Beer v. United States*, 425 U.S. 130, 141 (1976), plaintiff is entitled to judgment, and virtually all of the information requested by defendant's interrogatories is irrelevant.

SOURCE: Where there is a source of information in addition to Mayor Donald R. Morrison, Sr. or the records of the City of Pleasant Grove, the source is set out in parenthesis.

INTERROGATORIES

INTERROGATORY 1:

Please identify the date of the incorporation of the City of Pleasant Grove, and all minutes and records of public or private meetings respecting the incorporation.

ANSWER TO INTERROGATORY 1:

November 17, 1933. See file at Pleasant Grove City Hall entitled "Old Incorporation and Minutes of Meetings, January 1, 1934 - December 31, 1938." All public files are available during working hours. I know of no other records.

INTERROGATORY 2:

Please describe in detail the processes through which the boundaries of the City of Pleasant Grove can be altered.

ANSWER TO INTERROGATORY 2:

See Exhibit A.

INTERROGATORY 3:

Please identify by map each change in the boundaries of the City of Pleasant Grove since the incorporation of the city.

- (a) Identify the extent and nature of development of each parcel affected by such change at the time of change and at the present.
- (b) Identify the number of persons by race residing in each affected area at the time of change and at the present time.
- (c) Identify the method through which the change in boundary was accomplished.
- (d) Identify the date of each such change in boundary.
- (e) Identify each study conducted by or made available to the City of Pleasant Grove respecting each proposed boundary change. Identify the source and basis for each such study.
- (f) Identify the owners of real property within each affected area at the time of change.

ANSWER TO INTERROGATORY 3:

1945 annexation—see Exhibit B.

- (a) This parcel was undeveloped in 1945. The area is now approximately half developed with single-family houses.
- (b) In 1945, no one lived in this area. Approximately 100 people live there now. As far as I know, they are all white.
- (c) Legislative act.
- (d) 1945
- (e) I know of no such studies.
- (f) Woodward Iron Company. (James Medlock, Building Inspector)

1967 annexation—see Exhibit B.

- (a) Parcel I was completely undeveloped and still is. Parcel II contained 15 houses altogether in 1967, on 4th Place, 4th Way, and 3rd Street. Approximately 300 houses have been added since. Parcel II was developed with two rest homes and four houses and still is. One rest home has added an addition.
- (b) Parcel I has never had any residents. Parcel II had approximately 40 residents, all white, in 1967 and has approximately 900 today, all white. Parcel III had approximately 150 residents in 1967, all white. It has approximately 230 today, 205 white and 25 black. (Sarah Mays, City Clerk)
- (c) Legislative act.
- (d) 1967
- (e) I know of no such studies.
- (f) Objection. It would be unduly burdensome to determine the ownership of every parcel. U.S. Steel Corporation owned Parcel I and part of Parcel III. Woodward Iron Corporation owned most of Parcel

II. The remainder was owned, as far as I know, by individual families and the rest homes.

1969 annexation—see Exhibit B.

- (a) Four houses, all belonging to the Glasgow family, were on this parcel in 1969. Two houses, also belonging to the Glasgows, have been added since.
- (b) Fourteen in 1969, 20 today, all white.
- (c) Legislative act.
- (d) 1969.
- (e) I know of no such studies.
- (f) The Glasgow family.

(Sarah Mays)

INTERROGATORY 4:

Please identify each instance in which residents or property owners have sought to be annexed to or deannexed from the City of Pleasant Grove, but where the such request has not been positively acted upon (i.e. has been either denied or not acted upon).

- (a) Identify copies of all documents relating to the request.
- (b) Identify the date of the request.
- (c) Identify the race of the persons making the request.
- (d) Identify by map the boundaries of the area involved in the request.
- (e) Identify the dates of all public and private meetings involving any city official at which the requests were discussed. Identify all records of such meetings.
- (f) Describe the reasons for the denial or failure to act upon each such request.
- (g) Provide copies of all documents relating to the city's response to such requests.

ANSWER TO INTERROGATORY 4:

Kohler petition

- (a) I know of none.
- (b) 1969
- (c) White
- (d) See Exhibit B.
- (e) Two telephone calls between Mr. W. J. Kohler and former Mayor Bobby R. Patrick in 1969. I know of no records.
- (f) The City planned to expand westward on undeveloped land and was not interested in considering any other annexations.
- (g) Objection. This is not an interrogatory. (Bobby R. Patrick, former Mayor)

Westminster Subdivision petition

- (a) There was such a written petition. I am attempting to locate it, and if I do, plaintiff will produce it.
- (b) Unknown at this time.
- (c) White.
- (d) See Exhibit B.
- (e) One telephone conversation and one meeting between Mayor Patrick and a representative of petitioners. I know of no records of such meetings.
- (f) The City planned to expand westward on undeveloped land and was not interested in considering any other annexations.
- (g) Objection. This is not an interrogatory. (Bobby R. Patrick)

West Smithfield Manor petition

- (a) Exhibit C. Minutes of meetings when the issue was discussed are available at City Hall during normal working hours.
- (b) April 18, 1979.
- (c) Black.
- (d) See Exhibit B.
- (e) The Council met on May 5, 1979 and June 18, 1979. The committee which was assigned to report on the matter met on two occasions between those two dates. Minutes of the Council meetings are available at City Hall. There are no other records.
- (f) The City had plans to expand westward on undeveloped land, and wasn't interested in considering any other annexations.
- (g) Objection. This is not an interrogatory.

Dolomite petition

- (a) Exhibit D.
- (b) October 1, 1979.
- (c) Black.
- (d) See Exhibit B.
- (e) Meetings of the City Council on October 1, November 5, and November 19, 1979, and March 17, 1980. Minutes of these meetings are available at City Hall.
- (f) The City had plans to expand westward on undeveloped land and was not interested in considering any other annexations.
- (g) Objection. This is not an interrogatory.

INTERROGATORY 3:

With respect to the area annexed by Act 79-419 (1979), please identify each person with a legal interest in any

real property in the annexed area, the race of each such person, and the date of acquisition of that interest.

ANSWER TO INTERROGATORY 5:

The owners of record at the time of annexation were Mead Corporation, Gary Dobbs, and the City itself. Gary Dobbs is white. Mead acquired its interest around 1970; Dobbs acquired his also around 1970; and the City acquired its interest in 1975. I know of no other "legal interest(s)" and object to obtaining them on the ground that in attempting to do so, I would be intruding on others' private business, and on the further ground that such "legal interest(s)" are not relevant to this lawsuit and are not likely to lead to admissible evidence.

INTERROGATORY 6:

Please identify each person who has served on the governing body of the City of Pleasant Grove.

(a) Identify the race of each such person.

(b) Identify the dates of service of each such person.

ANSWER TO INTERROGATORY 6:

All persons who have served on the governing body of Pleasant Grove have been white. Plaintiff objects to identifying each person who has served on the governing body of Pleasant Grove and identifying the dates of service of each such person on the grounds that to do so would be unduly burdensome and on the further ground that the information requested is not relevant to this lawsuit. Documents containing most of this information, however, are available for inspection during working hours at City Hall.

INTERROGATORY 7:

Please identify all records maintained or published by the City of Pleasant Grove, its agents and licenses, since the date of incorporation of the city which pertain to (a) public hearings on proposed actions of the municipal governing body; (b) recorded votes of the municipal governing

body; (c) annexations of land to the city; (d) each ordinance adopted or rejected by the City of Pleasant Grove.

ANSWER TO INTERROGATORY 7:

These records are available for inspection during working hours at City Hall. Plaintiff objects to identifying each of these records on the ground that to do so would be unduly burdensome and on the further ground that most of these records are irrelevant to this lawsuit.

INTERROGATORY 8:

Please identify those ordinances of the City of Pleasant Grove which protect residents against discrimination on account of race in housing, employment, public accommodations, and voting.

(a) Identify the date of adoption of each such ordinance.

(b) Identify each instance in which each such ordinance has been enforced.

(c) Identify the personnel responsible for enforcing each such ordinance and the sources and extent of funding for enforcement.

ANSWER TO INTERROGATORY 8:

There are none.

INTERROGATORY 9:

Please identify each position of employment of the government of the City of Pleasant Grove

(a) Identify the duties and salary of the incumbent for each such position.

(b) Identify the race of the incumbent for each such position.

(c) Identify whether the incumbent for each such position resides within the Pleasant Grove City limits.

ANSWER TO INTERROGATORY 9:

An organizational chart of City employees is attached as Exhibit E. The race of all incumbents is white. 27 of

the 72 City employees reside outside the City limits. (Sarah Mays) Plaintiff objects to further answering this interrogatory on the ground that to do so would be unduly burdensome and on the further ground that the answer is irrelevant to this lawsuit.

INTERROGATORY 10:

Please identify each comprehensive plan or other zoning or planning document adopted by or proposed for adoption by the City of Pleasant Grove.

ANSWER TO INTERROGATORY 10:

The Pleasant Grove Comprehensive Plan, recommended to the City Council on March 14, 1978, is available at City Hall during working hours.

INTERROGATORY 11:

Please identify each restriction on the sale of real property to any person or class of persons contained in any deed of land within the current boundaries of the City of Pleasant Grove as of the time of or subsequent to the date of incorporation of the city.

ANSWER TO INTERROGATORY 11:

Plaintiff objects to answering this interrogatory on the ground that it is overbroad and that the only way the City could answer it would be to research each deed at the local recorder of deeds. The task could easily be undertaken by defendant, which has far greater resources. The information requested is also irrelevant. I have personally never seen a racial restriction in a deed to property in Pleasant Grove.

INTERROGATORY 12:

Please identify each application or proposal to build multi-family housing units within the City of Pleasant Grove, or to build any type of low-income or other public housing within the city.

- (a) Identify the applicant or proponent of each such proposal.
- (b) Identify the action taken by the City of Pleasant Grove respecting each such proposal.
- (c) Identify the date and any record of each public or private meeting attended by any elected or appointed official of the City of Pleasant Grove at which such proposals were discussed.

ANSWER TO INTERROGATORY 12:

- (a) See Exhibit F. There is also Section 235 housing in Pleasant Grove, but the City does not get involved in that process. Plaintiff objects to answering this interrogatory with regard to Section 235 housing on the ground that to answer it would be unduly burdensome and on the further ground that the information sought is irrelevant to the lawsuit.
- (b) The application was approved by the Planning Board. The City Council later passed an ordinance which had the effect of overruling the Planning Board.
- (c) The records of public meetings at which this matter was discussed are available at City Hall during normal working hours. Plaintiff objects to the identification of any private meetings on the ground that these were in preparation for ongoing litigation in *Wheeler et al. v. City of Pleasant Grove, et. al.* (N.D. Ala. CA78 G1150S).

INTERROGATORY 13:

For each and any of the Defendant's First Request For Admissions denied in whole or in part by plaintiff City of Pleasant Grove, please state fully all reasons why such request for admission was denied. Please include in your answer all facts and studies which may tend to indicate that the statement made in the request for admissions is not true and identify the sources for all such facts.

ANSWER TO INTERROGATORY 13:

See Answers to Defendant's First Request for Admissions.

I, Donald R. Morrison, Sr., Mayor of the City of Pleasant Grove, do hereby swear that I have read the foregoing answers to defendant's interrogatories to plaintiff (set 1) and that these answers are true based on my personal knowledge, the records of the City of Pleasant Grove, and conversations with Bobby R. Patrick, Sarah Mays, and James Medlock.

/s/Donald R. Morrison, Sr.
Donald R. Morrison, Sr.

[Notarization, attorneys' signatures, and exhibits omitted in printing.]

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

CIVIL ACTION NO. 80-2589

CITY OF PLEASANT GROVE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

AFFIDAVIT OF BOBBY R. PATRICK

I, Bobby R. Patrick, being first duly sworn, hereby depose and say:

(1) I live in the City of Pleasant Grove, Jefferson County, Alabama, at 197 Park Place, have lived there since 1968, and have been a resident of Pleasant Grove since 1940. The City is governed by a Mayor and a Council of five members, all of whom are elected at large. I was elected Mayor in October, 1968, and served for 12 years until October, 1980. I am now employed at the McLeod Agency as an insurance agent.

(2) In late 1978 we were approached by land owners, Nathan Stott, Gary Dobbs, Sr., and Roy Satterwhite, President of Mead Land Services, to have annexed property which they owned into the corporate limits of Pleasant Grove. I brought up these requests at the meeting of February 5, 1979. I showed the other members of the Council where the area to be annexed, which included some 50 acres of land which belonged to the City but which had not yet been annexed by the City, was located. All the land was and is completely uninhabited. I described how the area would be subdivided and recommended that we

adopt the Resolution annexing the land. Mr. Capps made a motion to that effect, Mr. Cain seconded, and the motion carried with one abstention. (Attachment 1.)

(3) The reason I recommended that the Resolution be passed and the reason I voted for it was that it was similar to development we had had in the past, and it was keeping with the present character of the City.

(4) I asked State Senator Mac Parsons to introduce legislation in the Alabama Legislature which would accomplish the annexation. The bill was advertised in the newspaper on February 21 and 28 and March 7 and 14, 1979. (Attachment 2.) On July 17, 1979 the Governor of Alabama signed the Act into Law. (Attachment 3.)

(5) On April 18, 1979, I received a petition from residents of West Smithfield Manor and nearby Five Acre Road that their area be annexed into the City. (Attachment 4.) On May 7, 1979, I reported receipt of the petition to the Council. Representatives of the petitioners attended the meeting and were asked why they wanted to be annexed into Pleasant Grove. They answered that they had read in the papers that we would be withdrawing fire protection and they wanted to make sure that they kept their fire protection and that this could be accomplished by annexation. I asked Mr. Donald R. Morrison, Sr. to chair a committee consisting of himself, Mr. Joe Cooper and Mr. Hollis Cain, to study this petition.

(6) At the Council meeting on June 18, 1979, Mr. Morrison submitted a Resolution by which West Smithfield Manor would continue to receive fire protection. After discussion, the Council agreed that the Resolution was meant to accord fire protection only and not paramedic services, and as so understood, the Resolution was passed unanimously.

(7) The Council never acted in any other fashion on the petition from West Smithfield Manor and residents of Five

Acre Road to be annexed to Pleasant Grove during my term as Mayor, which ended October 6, 1980.

/s/ BOBBY R. PATRICK
BOBBY R. PATRICK

[Notarization and Attachments omitted in printing.]

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

CIVIL ACTION NO. 80-2589

CITY OF PLEASANT GROVE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

AFFIDAVIT OF DONALD R. MORRISON, SR.

I, Donald R. Morrison, Sr., being first duly sworn, hereby depose and say:

(1) I am a resident of the City of Pleasant Grove, Jefferson County, Alabama. I live at 544 Park Road. I served as a member of the Council of Pleasant Grove from October 1, 1972 through October 6, 1980. On October 6, 1980 I was sworn in as Mayor of the City of Pleasant Grove and am serving as Mayor at the present time.

(2) Although a member of the Council on February 5, 1979, I did not attend the Council meeting which took place on that day. Accordingly, I did not vote on the Resolution which was adopted at the meeting on that date concerning the annexation of 450 acres on the western boundary of the City.

(3) I attended a meeting on May 7, 1979, at which a delegation of approximately ten people representing a larger group residing in West Smithfield Manor and along Five Acre Road submitted a request for annexation by Pleasant Grove. At the Council meeting on March 5, 1979, we had decided to withdraw fire and paramedic service

previously extended to neighboring areas. We were withdrawing that service because we found we were overextended and needed to keep our equipment closer to the City limits. (Attachment 1.) At the May 7 meeting someone on the Council asked the delegation why they wanted annexation, and they told us that they wanted to make sure they had fire protection.

(4) The Mayor asked me to serve as Chairman of a committee to study the petition. The other members of the committee were Joe Cooper and Hollis Cain. I asked Dot Presley, the Mayor's Secretary, to find out how much demand for our fire and paramedic service came from West Smithfield and discovered that in the year 1978 there had been only one call. Our committee, as a result, recommended that we extend fire protection to West Smithfield Manor and that recommendation was adopted by the Council, with the deletion of paramedic service. We made no other recommendation from the petition for annexation, and the Council, as a whole, has never acted on it. (Attachment 2)

(5) In October of 1980, after I assumed the office as Mayor and after discussing the matter informally with the newly elected Council, I decided, with their consent, to give West Smithfield Manor the paramedic service as well.

(6) In March, 1981, I appointed a new committee to study the annexation request of West Smithfield Manor and Five Acre Road area. The group consists of Joe Cooper, Clyde Morgan, and Pete Mosley as Chairman. I also asked my Department Heads to submit reports on the economic effect which the annexation of this area would have on their Departments. The committee has not yet reported to the Council.

(7) The present population of Pleasant Grove is 7,086. All of these, to the best of my knowledge are white, except for 32 blacks, all of whom live in nursing homes, and one Oriental.

/s/ DONALD R. MORRISON, SR.
DONALD R. MORRISON, SR.

[Notarization and Attachments omitted in printing.]

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

CIVIL ACTION NO. 80-2589

CITY OF PLEASANT GROVE

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

AFFIDAVITT OF SARAH A. MAYS

I, Sarah A. Mays, being first duly sworn, hereby depose and say:

(1) I live in the City of Pleasant Grove, Alabama, at 1043 8th Street. I have lived in Pleasant Grove since 1939 except for eighteen months when my husband was in the Army. I have been City Clerk of the City of Pleasant Grove and Secretary-Treasurer of the Utilities Board since January 1972. I was appointed Treasurer of the City in February, 1972. A description of my job as City Clerk is attached (Attachment 1).

(2) As the Mayor's delegatee, I have been in charge of every City election since January, 1972. Registration in Pleasant Grove is under the authority of the Jefferson County Board of Registrars. I am a Deputy Registrar. There are no black registered voters in the City of Pleasant Grove.

(3) The Utilities Board of the City of Pleasant Grove operates a water and natural gas distribution business for the City. Natural gas is bought from Southern Natural Gas Company and sold to one industrial and approximately

9,000 residential customers in the City of Pleasant Grove and other areas of Jefferson County (see prospectus of the Utilities Board of the City of Pleasant Grove, dated May 22, 1978, p. 11, Attachment 2).

(4) In the fiscal years ending September 30, 1979 and 1980, the Utilities Board transferred \$629,421 and \$871,852, respectively, to the City of Pleasant Grove. (See Exhibit B to Report of Certified Public Accountants, Utilities Board of the City of Pleasant Grove, years ending September 30, 1980 and 1979, Attachment 3 to this affidavit). Revenues, expenditures, and transfers to the General Fund of the City of Pleasant Grove are set out in Exhibit C to the Report of Certified Public Accountants, City of Pleasant Grove, Year ending September 30, 1980, Attachment 4 to this affidavit. Tax receipts and license receipts are broken down in Schedule 2. The following items of revenue might increase in approximate proportion to population if the City were to annex the areas of Pleasant Grove Highlands and Five Acre Road, either as in the case of the property tax and automobile taxes because the City could impose a tax directly or as in the other cases because the City receives the tax from the State or Jefferson County based in an approximate way on population:¹

¹ The first category under "Revenues" on Exhibit C is "Tax Receipts," which are broken down in Schedule 2. I have included every item in the category "Tax Receipts" as subject to increase should annexation take place, except "Sales and Use Tax," because I assumed annexation would not significantly change shopping patterns, and "Coal Severance Tax," because no coal is mined in the area to be annexed. The second category under "Revenues" on Exhibit C is "License Receipts," which are also broken down in Schedule 2. I have not included "Business License" as subject to increase because there are no businesses in the area requesting annexation. Of the remaining categories under "Revenues" on Exhibit C I have included "Police Department Revenue" because our Police Department would write tickets there if the area were annexed. I have not included "Building Permits" because I have been told that there has been little development there recently. I have not included "Government Grants" because I know of none now

ABC Board	\$ 9,606
Beer Tax	11,196
County Gasoline Tax	20,892
State Gasoline Tax	54,126
Property Tax—.75 mills	80,911
Automobile Tax	15,436
Road and Bridge Tax	6,936
Tobacco Tax	11,208
Auto License	14,150
State Auto License	573
Police Revenue	<u>30,370</u>
	\$255,404

Total expenditures for the City were \$1,790,951, in the year ending September 30, 1980. Thus sources of revenues which would go up in rough proportion to population if Pleasant Grove were to annex the areas of Pleasant Grove Highlands and Five Acre Road were only 14% of the total expenditures for 1980.

(5) Revenue is derived from the development of raw land from two sources, building permits and the installation of service lines, main and water taps. In 1980, a very poor year for building, \$8,593 were derived from building permits (Exhibit C to Attachment 4), and \$135,379 were derived from service lines, mains and water taps (Exhibit B to Attachment 3). In 1979, \$314,261 were derived from service lines, mains and water tap sources. In 1978 and 1977, revenues from these sources were \$272,551 and \$308,592 respectively. (Exhibit B to Report of Certified Public Accountants, years ended September 30, 1978 and 1977, Attachment 5 to this affidavit).

available. I have not included "Rents Received" because that is a fixed rent received from the Utility Board for space rented from the City, nor "Interest" because that is interest on the City's investments, nor "Sales of Pipe and Culvert" nor "Miscellaneous" because I do not see how annexation would affect these items.

JA-24

/s/ SARAH A. MAYS

SARAH A. MAYS, City Clerk & Treasurer

[Notarization and Attachments omitted in printing.]